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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/538,805	03/30/2000	Jay S. Walker	99-077	7826
22927	7590	12/23/2003	EXAMINER	
WALKER DIGITAL FIVE HIGH RIDGE PARK STAMFORD, CT 06905			CUFF, MICHAEL A	
			ART UNIT	PAPER NUMBER
			3627	
DATE MAILED: 12/23/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/538,805

Applicant(s)

WALKER ET AL.

Examiner

Michael Cuff

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on 17 September 2003.

2a) ☐ This action is FINAL.

2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 1-34, 36-56 and 65-74 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-34, 36-56 and 65-74 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some \* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Amendment***

1. Applicant's amendment, filed 9/17/03, has incorporated the previously stated allowable subject matter. The examiner apologizes for indicating allowable subject matter and then withdrawing the allowability determination. The examiner is having difficulty with the term "subscription". The term is so broad that agreement vehicles in many different fields can read on this term. It would help tremendously, but absolutely not required, if applicant could limit the claims to a specific field so that it could be exhaustively searched. In the present application, the examiner never considered housing financing as a subscription. However, by the broadest reasonable interpretation, the lease-purchase agreement meets the metes and bounds of the broad term.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-34, 36-56, and 65-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Kansas consumer lease-purchase agreement act.

The Kansas consumer lease-purchase agreement act, effective since 1991, shows all of the limitations of the claims except for specifying a retailer and some payment variations

The Kansas consumer lease-purchase agreement act identifies personal property (a product). The terms for a lease-purchase agreement (subscription) can be found on the Internet (determined by a controller). Breach of contract can result in penalty. There is a "consummation means" (redemption identifier). The personal property can be a plurality of products (i. e. house, washer, dryer, ...). The personal property may have a specific brand (i. e. a Kenmore washer). Negotiating terms of a lease-purchase agreement is inherent (second proposed term). There is a renegotiation provision (modification request) in the act. A customer can end one agreement and start another one (new product).

The examiner takes Official Notice that the real estate industry can act as an agent for a lease-purchase agreement and can suggest creative price packages in order to help customers obtain personal property. The personal property may be available at a real estate company (first retailer). Communicating, identifying customers, tracking a contract and walking customers through a contract are inherent features of the real estate business. There are real estate businesses on the Internet (network connection).

Based on the discussion above, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use a real estate business to

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facilitate fruition of a lease-purchase in order to help customers obtain personal property.

### ***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cuff whose telephone number is (703) 308-0610. The examiner can normally be reached on 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

*Michael Cuff* 12/15/03

Michael Cuff  
December 15, 2003